

Receipt Number
558175

9.

UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN -- SOUTHERN DIVISION

JEREMY BROWN,

Plaintiff

-vs-

Case: 1:07-cv-12377
Assigned To: Ludington, Thomas L
Referral Judge: Binder, Charles E
Filed: 06-04-2007 At 10:45 AM
CMP BROWN V. ASSET ACCEPTANCE, ET A
L (TAM)

DEMAND FOR JURY TRIAL

ASSET ACCEPTANCE, LLC, and
STERLING JEWELERS INC.,

Defendants.

Adam G. Taub (P48703)
Lyngklip & Taub Consumer Law Group, PLC
Attorney For Jeremy Brown
24500 Northwestern Highway, Ste. 206
Southfield, MI 48075
(248) 746-3790

COMPLAINT & JURY DEMAND

Jurisdiction

1. This court has jurisdiction under the FDCPA, 15 U.S.C. §1692k(d) and 28 U.S.C. §§1331,1337.
2. This court may exercise supplemental jurisdiction over the related state law claims arising out of the same nucleus of operative facts which give rise to the Federal law claims.

Parties

3. The Plaintiff to this lawsuit is Jeremy Brown who resides in Midland, Michigan.

4. The Defendants to this lawsuit are as follows:

- a. Asset Acceptance, LLC ("Asset Acceptance") which is a corporation doing business in Michigan at PO Box 2036, Warren, MI 48090, and whose resident agent, The Corporation Company, maintains its office at 30600 Telegraph Road Suite 2345, Bingham Farms, MI 48025.
- b. Sterling Jewelers Inc. ("Sterling Jewelers") which is a corporation doing business in Michigan and whose resident agent, The Corporation Company, maintains its office at 30600 Telegraph Rd #2345, Bingham Farms, MI 48025.

Venue

5. The transactions and occurrences which give rise to this action occurred in Midland County.
6. Venue is proper in the Eastern District of Michigan.

General Allegations

7. Some time prior to January 19, 2007, Asset Acceptance was engaged by Sterling Jewelers Inc. to collect a debt allegedly owed by someone named Jeremy D. Davis.
8. The Defendants decided to collect the alleged debt from Plaintiff instead of the person who owed the debt, in spite of actual knowledge that these were different people.
9. No contract or law obligated the Plaintiff to pay any sum the Defendants attempted to collect from him.
10. On or about January 19, 2007, Asset Acceptance communicated with Jeremy Brown for the first time.

11. On or about January 19, 2007, Asset Acceptance sent its validation notice pursuant to 15 U.S.C. 1692g to Jeremy Brown.
12. On or about January 30, 2007 Jeremy Brown disputed that he owed the debt, requested that Asset Acceptance validate the debt and to cease and desist contact until his request for validation had been satisfied.
13. Asset Acceptance reported the debt on Jeremy Brown's consumer report as being owed and placed for collection in February of 2007 without noting that the debt was disputed.
14. Asset Acceptance's trade line is false, misleading and inaccurate.
15. Sterling Jeweler's reported the debt on Jeremy Brown's consumer report as being owed and placed for collection in February of 2007 without noting that the debt was disputed.
16. Sterling Jeweler's trade line is false, misleading and inaccurate.

COUNT I – Fair Debt Collection Practices Act (Asset Acceptance)

17. Mr. Brown incorporates the preceding allegations by reference.
18. At all relevant times Asset Acceptance – in the ordinary course of its business – regularly engaged in the practice of collecting debts on behalf of other individuals or entities.
19. Asset Acceptance is a "debt collector" under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692a(6).
20. Asset Acceptance's foregoing acts in attempting to collect this alleged debt against Mr. Brown constitute violations of the FDCPA including, but not limited to the following:

- a. Asset Acceptance failed to cease communication with Mr. Brown after he notified Asset Acceptance in writing that he refused to pay the debt or alternatively wished Asset Acceptance to cease further communication, in violation of 15 U.S.C. § 1692c(c).
- b. Asset Acceptance used generally false, misleading or unfair methods to collect the debt, in violation of the general prohibitions in 15 U.S.C. §1692e.
- c. Asset Acceptance made a false representation of the character, amount, or legal status of the debt in violation of 15 U.S.C. §1692e(2).
- d. Asset Acceptance communicated or threatened to communicate credit information which is known or which should be known to be false, in violation of 15 U.S.C. §1692e(8).
- e. Asset Acceptance used unfair or unconscionable means to collect or attempt to collect the debt, in violation of the general prohibition in 15 U.S.C. 1692(l).
- f. Asset Acceptance collected an amount without express authorization under the agreement creating the debt or other statutory authority in violation of 15 U.S.C. 1692(f)(1).
- g. Asset Acceptance failed to validate the debt and continued to collect in spite of a written request to validate in violation of 15 USC §1692g.
- h. Mr. Brown has suffered damages as a result of Asset Acceptance's violations of the FDCPA.

COUNT II – Michigan Debt Collection Practices Act (Asset Acceptance)

21. Mr. Brown incorporates the preceding allegations by reference.
22. Asset Acceptance is a "regulated person" under the Michigan Debt Collection Practices Act ("MDCPA"), M.C.L. § 445.251(g)(xi).
23. Asset Acceptance 's foregoing acts in attempting to collect this alleged debt against Mr. Brown constitute violations of the Michigan Collection Practices Act, M.C.L. § 445.251 *et seq.* including, but are not limited to, the following
 - a. Making an inaccurate, misleading, untrue, or deceptive statement or claim in a communication to collect a debt or concealing or not revealing the purpose of a communication when it is made in connection with collecting a debt in violation of M.C.L. §445.252(e).
 - b. Publishing, causing to be published, or threatening to publish lists of debtors, except for credit reporting purposes, when in response to a specific inquiry from a prospective credit grantor about a debtor in violation of M.C.L. §445.252(l).
24. Mr. Brown has suffered damages as a result of Asset Acceptance's violations of the Michigan Collection Practices Act.
25. Asset Acceptance's violations of the Michigan Collection Practices Act were willful.

COUNT III – Michigan Collection Practices Act (Sterling Jewelers Inc.)

26. Mr. Brown incorporates the preceding allegations by reference.
27. Sterling Jewelers has engaged in violations of the Michigan Collection Practices Act, M.C.L. §445.251 *et seq.* including, but not limited to:

- a. Making an inaccurate, misleading, untrue, or deceptive statement or claim in a communication to collect a debt or concealing or not revealing the purpose of a communication when it is made in connection with collecting a debt in violation of M.C.L. §445.252(e).
- b. Communicating information relating to a debtor's indebtedness to an employer or an employer's agent unless the communication is specifically authorized in writing by the debtor subsequent to the forwarding of the claim for collection, the communication is in response to an inquiry initiated by the debtor's employer or the employer's agent, or the communication is for the purpose of acquiring location information about the debtor in violation of M.C.L. §445.252(i).
- c. Failing to implement a procedure designed to prevent a violation by an employee in violation of M.C.L. §445.252(q).

28. Mr. Brown has suffered damages as a result of these violations of the Michigan Collection Practices Act.

Demand for Jury Trial

29. Plaintiff demands trial by jury in this action.

Demand For Judgment for Relief

30. *Accordingly, Mr. Brown requests that the Court grant:*

- a. *Equitable relief under statute and common law, in the form of a declaration that the amount sought by Defendant is not actually owed and an injunction prohibiting further collection of those amounts.*
- b. *Actual damages.*

- c. *Statutory damages.*
- d. *Treble damages.*
- e. *Statutory costs and attorney fees.*

Respectfully Submitted,

LYNGKLIP & TAUB
CONSUMER LAW GROUP, PLC

By:


Adam G. Taub (P48703)
Attorney For Jeremy Brown
24500 Northwestern Highway, Ste. 206
Southfield, MI 48075
(248) 746-3790
AdamLaw@Pop.Net

Dated: June 1, 2007

CIVIL COVER SHEET

COURT IN WHICH SUIT IS BROUGHT

MIDLAND

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

JEREMY BROWN

(b) County of Residence of First Listed Plaintiff MIDLAND
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

ASSET ACCEPTANCE LLC, STERLING JEWELERS LLC

County of Residence of First Listed Defendant MACOMB
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Adam G. Taub, Lyngklip & Taub Consumer Law Group, PLC
24500 Northwestern Hwy - Ste. 206, Southfield, MI 48075-2406
(248) 746-3790

II. BASIS OF JURISDICTION (Select One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Select One Box for Plaintiff and One Box for Defendant)

PTF DEF PTF DEF

4 4

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IV. NATURE OF SUIT (Select One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER SUBJECT MATTER
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 430 Banks and Banking	
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 450 Commerce	
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement/Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 460 Deportation	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 480 Consumer Credit	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 490 Cable/Sat. TV	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other	<input type="checkbox"/> 510 Selective Service	
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 410 Agriculture	<input type="checkbox"/> 550 Securities/Commodities/ Exchange	
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 420 Other Food & Drug	<input type="checkbox"/> 560 State Taxation	
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 425 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 570 Antitrust Laws	
REAL PROPERTY		<input type="checkbox"/> 430 Liquor Laws	<input type="checkbox"/> 580 Environmental	
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 590 Other	<input type="checkbox"/> 590 Other	
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 610 Fair Labor Standards Act	<input type="checkbox"/> 600 State Taxation	
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 710 Labor/Mgmt. Relations	<input type="checkbox"/> 610 Antitrust Laws	
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 720 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 620 Other Food & Drug	
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 630 Drug Related Seizure of Property 21 USC 881	
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 640 Liquor Laws	
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 650 Airline Regs.	
		<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 660 Occupational Safety/Health	
			<input type="checkbox"/> 670 Other	
			<input type="checkbox"/> 680 Copyrights	
			<input type="checkbox"/> 690 Patent	
			<input type="checkbox"/> 700 Trademark	
			<input type="checkbox"/> 710 HIA (1395ff)	
			<input type="checkbox"/> 720 Black Lung (923)	
			<input type="checkbox"/> 730 DIWC/DIWW (405(j))	
			<input type="checkbox"/> 740 Title XVI	
			<input type="checkbox"/> 750 RSI (405(g))	
			<input type="checkbox"/> 760 Fair Labor Standards Act	
			<input type="checkbox"/> 770 Labor/Mgmt. Relations	
			<input type="checkbox"/> 780 Labor/Mgmt. Reporting & Disclosure Act	
			<input type="checkbox"/> 790 Railway Labor Act	
			<input type="checkbox"/> 800 Other Labor Litigation	
			<input type="checkbox"/> 810 Empl. Ret. Inc. Security Act	
			<input type="checkbox"/> 820 Other	
			<input type="checkbox"/> 830 Habeas Corpus	
			<input type="checkbox"/> 840 Mandamus & Other	
			<input type="checkbox"/> 850 Civil Rights	
			<input type="checkbox"/> 860 Prison Condition	
			<input type="checkbox"/> 870 Title XVI	
			<input type="checkbox"/> 880 RSI (405(g))	
			<input type="checkbox"/> 890 Freedom of Information Act	
			<input type="checkbox"/> 900 Appeal of Fee Determination Under Access to Justice	
			<input type="checkbox"/> 910 Agricultural Acts	
			<input type="checkbox"/> 920 Economic Stabilization Act	
			<input type="checkbox"/> 930 Environmental Matters	
			<input type="checkbox"/> 940 Energy Allocation Act	
			<input type="checkbox"/> 950 Constitutionality of State Statutes	

V. ORIGIN (Select One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify)

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 USC 1692k(d) and 28 USC 1331,1337

Brief description of cause:

The above named defendants have violated the Fair Debt Collection Practices Act and other state law claims out of the same transaction

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

6/1/07

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

ATTACHMENT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

Yes
 No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

Yes
 No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :
